



MITCHELL E. DANIELS, JR., *Governor*

JAMAL L. SMITH, *Executive Director*

ICRC No.: EMha11100654

[REDACTED],  
Complainant,

vs.

DETRO TRAILER SALES,  
Respondent.

### **NOTICE OF FINDING**

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice has occurred. 910 IAC 1-3-2(b)

On October 7, 2011, [REDACTED] ("Complainant") filed a complaint with the Commission against Detroit Trailer Sales ("Respondent") alleging discrimination on the basis of disability, in violation of the Indiana Civil Rights Law (IC 22-9, et seq) and [REDACTED]. Accordingly, the Commission has jurisdiction over the parties and the subject matter of this complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was laid off work due to his disability. In order to prevail, Complainant must show that: (1) he had an impairment that could be perceived as limiting a major life activity; (2) he suffered an adverse employment action; (3) he was meeting Respondent's legitimate business expectations; and (4) similarly-situated employees without impairment were treated more favorably.

For purposes of this analysis it will be presumed that Complainant had an impairment that substantially limited a major life activity. He had been diagnosed with Hepatitis C. It is clear that Complainant suffered an adverse employment action when he was laid off work on August 15, 2011. The record shows Complainant was performing his essential job functions to standards. Evidence indicates Respondent's owner, [REDACTED], stated his reason for laying Complainant off work was due to a slowdown in business operations; however, no evidence has been provided to substantiate Respondent's reason for the layoff. The record indicates Complainant was the only employee laid off at this time. Based upon these findings, probable cause exists to believe that an unlawful discriminatory practice may have occurred.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. IC 22-9-1-18, 910 IAC 1-3-5 The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act



occurred. However, both parties must agree to such an election or the Commission's Administrative Law Judge will hear this matter. IC 22-9-1-16, 910 IAC 1-3-6

July 19, 2012  
Date

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Joshua S. Brewster, Esq.,  
Deputy Director  
Indiana Civil Rights Commission